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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 KAISER SAID ELMI, et al.,

11 Plaintiffs,

NO. 2:13-cv-01703-JPD

12 v.

**ANSWER OF DEFENDANT SSA
MARINE, INC.**

13 SSA MARINE, INC., et al.,

14 Defendants.

15
16 COME NOW defendants SSA Marine, Inc. ("SSA"), John Bell, Brandon Brent, Tom
17 Hsue and William Kendall (collectively "SSA Defendants") and answer Plaintiffs' Complaint
18 as follows:

19 **I. JURISDICTION**

20 1. SSA Defendants deny that plaintiffs state a claim against them under federal
21 law, deny that the action is between citizens of different states, deny that plaintiffs state a
22 claim against them for deprivation of rights under color of any State Law, and deny that
23 supplemental jurisdiction should be exercised against them. SSA Defendants admit that
24 venue is proper, but deny all other allegations and inferences to be drawn therefrom.
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II. PARTIES

2.1 SSA Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations, and therefore deny.

2.2 SSA Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations, and therefore deny.

2.3 SSA Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations, and therefore deny.

2.4 SSA Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations, and therefore deny.

2.5 SSA Defendants admit that SSA Marine, Inc. is a Washington corporation with corporate offices in Seattle. SSA Defendants deny that SSA Marine, Inc. operates any terminals at the Port of Seattle, and deny all other allegations and inferences to be drawn therefrom.

2.6 SSA Defendants admit that John Bell was the General Manager at Terminal 30 at the Port of Seattle. SSA Defendants deny all other allegations and inferences to be drawn therefrom.

2.7 SSA Defendants admit that Tom Hsue was a superintendent at the Port of Seattle. SSA Defendants deny all other allegations and inferences to be drawn therefrom.

2.8 SSA Defendants admit that William Kendall was a longshore foreman at the Port of Seattle. SSA Defendants deny all other allegations and inferences to be drawn therefrom.

2.9 SSA Defendants deny that SSA Marine, Inc. has any contracts with the Port of Seattle and deny that it operates any terminals at the Port of Seattle. SSA Defendants deny any legal responsibility for the acts of the Port of Seattle and any other defendants.

2.10 SSA Defendants deny that Jack Myers engaged in any unlawful conduct at the direction or to further the interests of SSA Marine, Inc. or any other SSA Defendant. As to

1 the remaining allegations, SSA Defendants lack knowledge or information sufficient to form a
2 belief about the truth of the allegations, and therefore deny.

3 2.11 SSA Defendants deny that Jose Santiago engaged in any unlawful conduct at
4 the direction or to further the interests of SSA Marine, Inc. or any other SSA Defendant. As
5 to the remaining allegations, SSA Defendants lack knowledge or information sufficient to
6 form a belief about the truth of the allegations, and therefore deny.

7 2.12 SSA Defendants deny that Terrence Kwan engaged in any unlawful conduct at
8 the direction or to further the interests of SSA Marine, Inc. or any other SSA Defendant. As
9 to the remaining allegations, SSA Defendants lack knowledge or information sufficient to
10 form a belief about the truth of the allegations, and therefore deny.

11 2.13 SSA Defendants deny that Walter Wesson engaged in any unlawful conduct at
12 the direction or to further the interests of SSA Marine, Inc. or any other SSA Defendant. As
13 to the remaining allegations, SSA Defendants lack knowledge or information sufficient to
14 form a belief about the truth of the allegations, and therefore deny.

15 2.14 SSA Defendants deny that Chad Rivers was hired, employed or supervised by
16 SSA Marine, Inc. and deny that he engaged in any unlawful conduct at the direction or to
17 further the interests of SSA Marine, Inc. or any other SSA Defendant. As to all other
18 allegations, SSA Defendants lack knowledge or information sufficient to form a belief about
19 the truth of the allegations, and therefore deny.

20 2.15 SSA Defendants deny that Michael Stillman Cabaccang was hired, employed
21 or supervised by SSA Marine, Inc. and deny that he engaged in any unlawful conduct at the
22 direction or to further the interests of SSA Marine, Inc. or any other SSA Defendant. As to all
23 other allegations, SSA Defendants lack knowledge or information sufficient to form a belief
24 about the truth of the allegations, and therefore deny.
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2.16 SSA Defendants deny that Joseph Kollmar was hired, employed or supervised by SSA Marine, Inc. and deny that he engaged in any unlawful conduct at the direction or to further the interests of SSA Marine, Inc. or any other SSA Defendant. As to all other allegations, SSA Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations, and therefore deny.

2.17 SSA Defendants deny that Brandon Brent was a security guard and deny that he was hired, employed or supervised by SSA Marine, Inc., and deny that he engaged in any unlawful conduct at the direction or to further the interests of SSA Marine, Inc. or any other SSA Defendant.

2.18 SSA Defendants deny all allegations and inferences to be drawn therefrom.

2.19 SSA Defendants deny all allegations and inferences to be drawn therefrom.

2.20 SSA Defendants deny all allegations and inferences to be drawn therefrom.

2.21 SSA Defendants deny all allegations and inferences to be drawn therefrom.

2.22 SSA Defendants deny any wrongdoing and any violation of statutory or common law.

2.23 SSA Defendants deny any wrongdoing and any violation of statutory or common law. SSA Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding the filing of claims with the Port of Seattle and its response, and therefore deny.

III. FACTS

3.1 SSA Defendants, upon information and belief, admit that plaintiffs have at times worked as short-haul truckers at the Port of Seattle. SSA Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations, and therefore deny.

1 3.2 SSA Defendants lack knowledge or information sufficient to form a belief
2 about the truth of the allegations, and therefore deny.

3 3.3 SSA Defendants admit that this paragraph describes generally some of the
4 duties of a short-haul trucker.

5 3.4 SSA Defendants admit that the Port of Seattle owns Terminal 30 and deny that
6 SSA Marine, Inc. operates Terminal 30. SSA Defendants lack knowledge or information
7 sufficient to form a belief about the truth of the remaining allegations, and therefore deny.

8 3.5 SSA Defendants deny that SSA Marine, Inc. operates Terminal 30. SSA
9 Defendants deny the remaining allegations, and assert that adequate restroom facilities have
10 been provided for the short-haul truckers. For safety reasons, truckers are prohibited from
11 exiting their vehicles except to perform specific job tasks. Truckers who violate this rule have
12 been disciplined.

13 3.6 SSA Defendants deny. SSA Marine, Inc. has never encouraged or or condoned
14 physical force or violence.

15 3.7 SSA Defendants deny. SSA Marine, Inc. is not aware that any of its
16 employees has assaulted plaintiffs.

17 3.8 SSA Defendants deny. No SSA Marine, Inc. employee has assaulted plaintiffs,
18 and SSA Marine, Inc. has taken no action against plaintiffs because of an assault.

19 3.9 SSA Defendants deny. No SSA Marine, Inc. employee has assaulted plaintiffs,
20 and SSA Marine, Inc. has taken no action against plaintiffs because of an assault.

21 3.10 SSA Defendants deny. No SSA Marine, Inc. employee has assaulted plaintiffs,
22 and SSA Marine, Inc. has taken no action against plaintiffs because of an assault. The Port of
23 Seattle is not SSA Marine, Inc.'s agent.

1 3.11 SSA Defendants deny that SSA Marine, Inc operated Terminal 30. SSA
2 Defendants lack knowledge or information sufficient to form a belief about the truth of the
3 remaining allegations, and therefore deny.

4 3.12 SSA Defendants lack knowledge or information sufficient to form a belief
5 about the truth of the remaining allegations, and therefore deny.

6 3.13 SSA Defendants deny.

7 3.14 SSA Defendants deny. Plaintiff Elmi was disciplined for violating terminal
8 rules.

9 3.15 SSA Defendants deny that Port of Seattle Officers acted under the direction of
10 SSA Marine, Inc. SSA Defendants lack knowledge or information sufficient to form a belief
11 about the truth of the remaining allegations, and therefore deny.

12 3.16 SSA Defendants lack knowledge or information sufficient to form a belief
13 about the truth of the remaining allegations, and therefore deny.

14 3.17 SSA Defendants deny that terminal operations “shut down” for any break
15 period. For safety reasons, truck drivers are prohibited from leaving their trucks. Other
16 restrooms are available to truck drivers in safe areas. SSA Defendants lack knowledge or
17 information sufficient to form a belief about the truth of the remaining allegations, and
18 therefore deny.

19 3.18 SSA Defendants deny that Chad Rivers worked for, and acted with the backing
20 and support of, SSA Marine, Inc. SSA Defendants lack knowledge or information sufficient
21 to form a belief about the truth of the remaining allegations, and therefore deny.

22 3.19 SSA Defendants deny that any SSA Marine, Inc. worker or supervisor
23 witnessed any such incident. SSA Defendants lack knowledge or information sufficient to
24 form a belief about the truth of the remaining allegations, and therefore deny.
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1 3.20 SSA Defendants lack knowledge or information sufficient to form a belief
2 about the truth of the remaining allegations, and therefore deny.

3 3.21 SSA Defendants lack knowledge or information sufficient to form a belief
4 about the truth of the remaining allegations, and therefore deny.

5 3.22 SSA Defendants deny that Rivers was employed by SSA Marine, Inc. SSA
6 Defendants deny any wrongdoing.

7 3.23 SSA Defendants lack knowledge or information sufficient to form a belief
8 about the truth of the remaining allegations, and therefore deny.

9 3.24 SSA Defendants deny that terminal operations “shut down” for any break
10 period. For safety reasons, truck drivers are prohibited from leaving their trucks. Other
11 restrooms are available to truck drivers in safe areas. SSA Defendants lack knowledge or
12 information sufficient to form a belief about the truth of the remaining allegations, and
13 therefore deny.

14 3.25 SSA Defendants lack knowledge or information sufficient to form a belief
15 about the truth of the allegations, and therefore deny.

16 3.26 SSA Defendants lack knowledge or information sufficient to form a belief
17 about the truth of the allegations, and therefore deny.

18 3.27 SSA Defendants lack knowledge or information sufficient to form a belief
19 about the truth of the allegations, and therefore deny.

20 3.28 SSA Defendants deny that restroom facilities provided for truck drivers are
21 inadequate.

22 3.29 SSA Defendants lack knowledge or information sufficient to form a belief
23 about the truth of the allegations, and therefore deny. SSA Defendants deny that truck drivers
24 must be permitted to leave their trucks and jeopardize safety to wash their hands.
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1 3.30 SSA Defendants deny that Mr. Brent is an employee of SSA Marine, Inc. and
2 deny that Mr. Brent yelled at Mr. Muhiddin or mistreated him in any way under orders from
3 anyone.

4 3.31 SSA Defendants deny that Mr. Brent is an employee of SSA Marine, Inc. and
5 deny that Mr. Brent mistreated Mr. Muhiddin. Mr. Muhiddin was ordered to leave the
6 terminal for violating terminal safety rules.

7 3.32 Mr. Muhiddin was banned for violating terminal safety rules. SSA Defendants
8 lack knowledge or information sufficient to form a belief about the truth of the remaining
9 allegations, and therefore deny.

10 3.33 Mr. Muhiddin was banned for violating terminal safety rules, and should have
11 sought direction from his dispatcher concerning his load. SSA Defendants lack knowledge or
12 information sufficient to form a belief about the truth of the remaining allegations, and
13 therefore deny.

14 3.34 Mr. Muhiddin was banned for violating terminal safety rules, and should have
15 sought direction from his dispatcher concerning his load. SSA Defendants lack knowledge or
16 information sufficient to form a belief about the truth of the remaining allegations, and
17 therefore deny.

18 3.35 SSA Defendants deny any unlawful retaliation.

19 3.36 SSA Defendants lack knowledge or information sufficient to form a belief
20 about the truth of the allegations, and therefore deny.

21 3.37 SSA Defendants deny that SSA Marine, Inc. employed Rivers. SSA
22 Defendants lack knowledge or information sufficient to form a belief about the truth of the
23 remaining allegations, and therefore deny.

24 3.38 SSA Defendants deny. At the request of a representative of the truck drivers,
25 an additional restroom facility in a safe location was made available to them.
26

1 3.39 SSA Defendants deny any unlawful conduct.

2 3.40 SSA Defendants lack knowledge or information sufficient to form a belief
3 about the truth of the allegations, and therefore deny.

4 3.41 SSA Defendants lack knowledge or information sufficient to form a belief
5 about the truth of the allegations, and therefore deny.

6 3.42 SSA Defendants lack knowledge or information sufficient to form a belief
7 about the truth of the allegations, and therefore deny.

8 3.43 SSA Defendants deny that SSA Marine, Inc. employed Kollmar. SSA
9 Defendants lack knowledge or information sufficient to form a belief about the truth of the
10 remaining allegations, and therefore deny.

11 3.44 SSA Defendants deny that SSA Marine, Inc. employed any of the persons
12 described, deny any unlawful or discriminatory policies, and deny all other allegations and
13 inferences to be drawn therefrom.

14 3.45 SSA Defendants deny.

15 **IV. STATEMENT OF DAMAGES**

16 4.1 SSA Defendants deny.

17 4.2 SSA Defendants deny.

18 4.3 SSA Defendants deny.

19 4.4 SSA Defendants deny.

20 4.5 SSA Defendants deny.

21 **V. CAUSES OF ACTION**

22 **COUNT ONE**

23 **Violation Of Civil Rights**

24 **(Title 42 U.S.C. Section 1983)**

25 **(As To Plaintiffs ELMI, BERHANE, AND MUHIDDIN)**

26 **(As To Defendants MYERS, SANTIAGO, KWAN, WESSON, and DOES 1-25)**

5.1 SSA Defendants reassert their answers set forth above.



- 1 5.2 SSA Defendants deny.
2 5.3 SSA Defendants deny.
3 5.4 SSA Defendants lack knowledge or information sufficient to form a belief
4 about the truth of the allegations, and therefore deny.
5 5.5 SSA Defendants deny.
6

7 **COUNT TWO**
8 **Violation Of Civil Rights**
9 **(Title 42 U.S.C. Section 1983)**
10 **(As To Plaintiffs ELMi, BERHANE, AND MUHIDDIN)**
11 **(As To Defendants PORT OF SEATTLE, and DOES 26-50)**

- 12 5.6 SSA Defendants reassert their answers set forth above.
13 5.7 SSA Defendants deny.
14 5.8 SSA Defendants deny.
15 5.9 SSA Defendants deny.

16 **COUNT THREE**
17 **Violation Of Civil Rights**
18 **(Title 42 U.S.C. Section 1983)**
19 **(As To Plaintiffs ELMi AND MUHIDDIN)**
20 **(As To Defendants SSA MARINE, BELL, HSUE, KENDALL, BRENT, and DOES 101-**
21 **250)**

- 22 5.10 SSA Defendants reassert their answers set forth above.
23 5.11 SSA Defendants deny.
24 5.12 SSA Defendants deny.
25 5.13 SSA Defendants deny.

26 **COUNT FOUR**
RACIAL/NATIONAL ORIGIN DISCRIMINATION in Violation of Title VII
(As To All PLAINTIFFS)
(As To All SSA DEFENDANTS)

- 5.14 SSA Defendants reassert their answers set forth above.
5.15 SSA Defendants deny.



1 5.16 SSA Defendants deny.

2 5.17 SSA Defendants deny.

3 5.18 SSA Defendants deny.

4
5 **COUNT FIVE**
6 **BATTERY AND ASSAULT**
7 **(As To Defendants SSA MARINE, CABACCANG, RIVERS, AND KOLLMAR)**

8 5.19 SSA Defendants reassert their answers set forth above.

9 5.20 SSA Defendants lack knowledge or information sufficient to form a belief
10 about the truth of the allegations, and therefore deny.

11 5.21 SSA Defendants lack knowledge or information sufficient to form a belief
12 about the truth of the allegations, and therefore deny.

13 5.22 Omitted.

14 5.23 Omitted.

15 5.24 Omitted.

16 5.25 Omitted.

17 5.26 SSA Defendants deny.

18 5.27 SSA Defendants deny.

19 5.28 SSA Defendants deny.

20 **COUNT SIX**
21 **RACIAL/NATIONAL ORIGIN DISCRIMINATION UNDER RCW 49.60.030**
22 **(As To All DEFENDANTS)**

23 5.29 SSA Defendants reassert their answers set forth above.

24 5.30 SSA Defendants deny.

25 5.31 SSA Defendants deny.

26 5.32 SSA Defendants deny.

1 **COUNT SEVEN**
2 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
3 **(As To All DEFENDANTS)**

4 5.33 SSA Defendants reassert their answers set forth above.

5 5.34 SSA Defendants deny.

6 5.35 SSA Defendants deny.

7 5.36 SSA Defendants deny.

8 5.37 SSA Defendants deny.

9 **COUNT EIGHT**
10 **NEGLIGENCE**
11 **(As To All DEFENDANTS)**

12 5.38 SSA Defendants reassert their answers set forth above.

13 5.39 SSA Defendants deny.

14 5.40 SSA Defendants deny.

15 **VI. JURY TRIAL DEMAND**

16 6.1 The allegation that plaintiffs have demanded a jury trial does not require an
17 answer.

18 **VII. AFFIRMATIVE DEFENSES**

19 **BY WAY OF FURTHER ANSWER AND AS AFFIRMATIVE DEFENSES, SSA**
20 Defendants alleges:

21 1. Plaintiffs' complaint fails to state a claim upon which relief may be granted and
22 therefore should be dismissed with prejudice and with costs and fees awarded to SSA
23 Defendants.

24 2. Plaintiffs have failed to exhaust her administrative remedies.

25 3. Plaintiffs have failed to mitigate their damages, if any.

26 4. Plaintiffs' claims are barred in whole or in part by contributory and comparative
fault.



1 5. Plaintiffs' claims for punitive damages are barred by the fact defendants did not act
2 with malice or reckless indifference with respect to plaintiffs.

3 6. The Court lacks subject matter jurisdiction over some or all of the claims asserted.

4 7. SSA Defendants presently have insufficient knowledge and information on which
5 to form a belief as to whether they may have additional, as yet unstated, affirmative defenses
6 available and reserve the right to assert additional defenses if discovery indicates such
7 additional defenses would be appropriate.

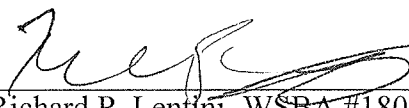
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9 **VIII. PRAYER FOR RELIEF**

10 WHEREFORE, having fully answered plaintiffs' Complaint, SSA Defendants pray for
11 the following relief:

- 12 1. Dismissal of plaintiffs' Complaint with prejudice;
13 2. Reasonable and statutory attorneys' fees and costs for having to defend this
14 action; and
15 3. For such other and further relief as the Court may deem just and equitable.

16 DATED this 4th day of November, 2013.

17 RYAN, SWANSON & CLEVELAND, PLLC

18 By 
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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the State of Washington that on November 4, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 4th day of November, 2013.

s/Richard P. Lentini

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